THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.26544 of 1999

ORAL ORDER:

This writ petition is filed challenging the award made in I.D.No.136 of 1994 dated 7.11.1996 on the file of the Labour Court-II, Hyderabad.

The petitioner is management and first respondent is workman. It appears, first respondent was appointed as Conductor on daily wage basis at BHEL Depot with effect from 10.7.1991. When he was conducting the Bus bearing No.AEZ-3037, a check was exercised on 29.11.1992 between ex-stages 2 to 1 i.e. Patancheru and Ramachandrapuram and the checking officials found certain cash and ticket irregularities. On the basis of the same, charge sheet was issued to the petitioner and after conducting a detailed enquiry into the charges, the disciplinary authority imposed the punishment of removal from service by order dated 3.5.1993. Aggrieved by the same, petitioner carried the matter in appeal before the appellate authority and the same was rejected on 30.8.1993. He further filed a review petition and it was also meted with the same fate on 18.10.1994. Ultimately, the workman raised a dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 (for short 'the Act') before the Labour Court-II, Hyderabad stating that the enquiry was not properly conducted and the findings recorded by the enquiry officer are not supported by any evidence and assuming that there is some lapse on his part, removal from service is shockingly disproportionate to that of the misconduct alleged. Petitioner-management filed a detailed counter denying the allegations made by the workman and stated that the charges are proved in full and the workman was given full and fair opportunity to defend himself properly.

Though no oral evidence was adduced on behalf of either side, but on behalf of petitioner-management, Exs.M1 to M20 were marked. After

perusing the entire material placed before it, the Labour Court came to the conclusion that the findings recorded by the enquiry officer are unassailable, however, taking into consideration of the totality of the facts and circumstances and having due regard to the nature of service rendered, irregularities committed and the amount involved, the Labour Court held that the punishment of removal from service is very harsh and disproportionate to that of the misconduct and directed for reinstatement of the workman into service with continuity of service, all attendant benefits and with 25% back wages. Aggrieved by the same, the present writ petition is filed.

The learned counsel for petitioner-management strenuously contended that the Labour Court having held that the findings recorded by the enquiry officer are unassailable, ought not to have taken a lenient view of the matter on the ground that the punishment of removal was harsh and disproportionate to that of the misconduct, therefore, the Labour Court atleast ought not to have awarded 25% back wages over and above granting the relief of reinstatement, continuity of service and all other attendant benefits.

Per contra, the learned counsel for respondent-workman Mr.V.H.R.Choudary strenuously contended that the misconduct has not been properly understood by the enquiry officer as well as by the Labour Court. The passengers under charge boarded the bus at stage No.2 and were traveling to ex-stage No.1 and the check had taken place in between stage Nos.2 and 1. The respondent-workman collected Rs.6/- and when he wanted to collect 0.50 ps. more, there was some argument between himself and passengers, therefore, he could not issue the tickets within one stage. He further stated that the Bus has not even travelled one fare stage. In a moffusil area, two fare stages are permissible for completion of issuance of tickets. Even assuming that the route is a city route, the Bus has not travelled beyond one fare stage. Under those

circumstances, no action could have been initiated by the management, therefore, the Labour Court was right in granting relief of reinstatement with continuity of service, with all attendant benefits and 25% back wages. The Labour Court in fact, ought to have awarded full back wages in a case of this nature.

There is no necessity of going into all the details. It is an admitted fact that the Conductor under the operational manual is supposed to complete the exercise of issuing tickets within one fare stage in moffusil areas and two fare stages in the city area. Admittedly, the respondent-workman was entitled to complete the process of issuing tickets within two fare stages. In fact, in this case, as noticed above, the Bus has not even travelled one fare stage and the check was made in between ex-stage Nos.2 and 1 and the respondent collected Rs.6/- and waiting to collect 0.50 ps. more. Be that as it may, the very framing of charges against the respondent when the Bus has not traveled more than one fare stage is unjustified and it was not fair on the part of the petitioner-management to remove the respondent-workman from service.

Under those circumstances, I am of the opinion that the Labour Court has not committed any error calling interference of this Court under Article 226 of the Constitution of India. In the facts and circumstances of the case, the Labour Court, in its wisdom, exercised powers vested under Section 11-A of the Act. The writ petition is devoid of merits and liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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C.V.RAMULU,

J

Date: 3.8.2007

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.26544 of 1999

3.8.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.26544 of 1999

Date: 3rd August, 2007

Between:

APSRTC, rep. by its Managing Director,
Mushirabad, Hyderabad & another.

.. Petitioners

And

R.K.Bhaskar, Conductor,
APSRTC, Falaknuma Depot,
Hyderabad & another.

.. Respondents